AF 2655

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
for FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 500.00

Complete if Known	
Application Number	09/963,244
Filing Date	September 26, 2001
First Named Inventor	Mark A. Schultz et al.
Examiner Name	Nabil Z. Hindi
Art Unit	2655
Attorney Docket No.	PU010200

METHOD OF PAYMENT *(check all that apply)* **CUSTOMER NUMBER: 24498**

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	**Fee ($)**	**Fee ($)**	**Fee ($)**	**Fee ($)**	**Fee ($)**	**Fee ($)**	**Fees Paid ($)**
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		Extra Claims	Fee ($)		Fee Paid ($)
_____	- 20 or HP =	_____	x _____	=	_____

HP = highest number of total claims paid for, if greater than 20.

Independent Claims		Extra Claims	Fee ($)		Fee Paid ($)
_____	- 3 or HP =	_____	x _____	=	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	**Fee Paid ($)**

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)	Fee Paid ($)
_____	- 100 =	_____	/ 50 =	_____	(round **up** to a whole number) x	_____	= _____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): **Appeal Brief**	500.00

SUBMITTED BY

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Signature				Date:	March 29, 2006

CUSTOMER NO.: 24498

PATENT
Atty. Dkt. No. PU010200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Mark A. Schultz et al. §

Serial No.: 09/963,244 § Group Art Unit: 2655

Confirmation No.: 8587 § Examiner: Nabil Z. Hindi

Filed: September 26, 2001 §

For: **DEFECT DETECTION OF RECORDABLE STORAGE MEDIA** §

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING
37 CFR 1.8
I hereby certify that this correspondence is being deposited on 3/29/06 with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

3/29/06 Julie Kaneshiro
Date Signature

APPEAL BRIEF

Dear Sir:

Appellant submits this Appeal Brief to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 2655 dated November 02, 2005, finally rejecting claims 1, 3-6, 9-10, 12-18, 21 and 23-28.

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Real Party in Interest

The real party in interest is Thomson Licensing S.A.

Related Appeals and Interferences

Appellant asserts that no other appeals or interferences are known to the Appellant, the Appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-22 were originally presented in the application. Claims 2, 11 and 22 were cancelled in prosecution and new claims 23-28 were added. Claims 1, 3-6, 9-10, 12-18, 21 and 23-28 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by Ohara et al. (US Patent No. 6,097,683, hereinafter "Ohara"). In addition, the Examiner objected to claims 7, 8, 19 and 20 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Status of Amendments

A first response was filed on November 04, 2004 to overcome a First Office Action dated May 13, 2004. In the First Office Action, the Examiner rejected the Appellant's claims 1- 22 under 35 U.S.C. § 102(b) as being anticipated by Ohara et al. (6,097,683, hereinafter "Ohara"). In the response filed on November 04, 2004, the Appellant amended claims 1 and 12 and cancelled claims 11 and 22. The Appellant further set forth arguments traversing the rejections issued by the Examiner.

A Request for Continued Examination and Preliminary Amendment were filed on February 18, 2005 in response to a Final Office Action dated January 07, 2005. In the Final Office Action, the Examiner rejected the Appellant's claims 1-10 and 12-21 under 35 U.S.C. § 102(b) as being anticipated by Ohara. In the preliminary amendment filed on February 18, 2005, the Appellant amended claims 1, 3, 12, 15 and 19-21. The Appellant further added new claims 23-24 and cancelled claim 1. The Appellant further set forth more detailed arguments traversing the rejections issued by the Examiner and requesting reconsideration.

A response was filed on July 08, 2005 to overcome a First Office Action after the RCE dated March 18, 2005. In the Office Action, the Examiner rejected the Appellant's claims 1, and 3-24 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In the response filed on July 08, 2005, the Appellant amended claims 1, 9, 12, 13 and 15 to overcome the 35 U.S.C. § 112 rejections. The Appellant further added new claims 25-28 and set forth arguments traversing the rejections issued by the Examiner.

A subsequent response was filed on October 19, 2005 to overcome a Second Office Action after the RCE dated July 25, 2005. In the Office Action, the Examiner rejected the Appellant's claims 9 and 21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Appellant regards as the invention and claims 1, 3-6, 10, 12-18 and 23-28 under 35 U.S.C. § 102(b) as being anticipated by Ohara. The Examiner further objected to the Appellant's claims 7, 8, 19 and 20 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the response filed on

October 19, 2005, the Appellant set forth arguments traversing the rejections issued by the Examiner and requesting reconsideration.

The Examiner responded to the Appellant's response of October 19, 2005 with a Final Office Action dated November 02, 2005. In the Final Office Action, the Examiner reiterated the rejections of the previous Office Action. That is, the Examiner rejected the Appellant's claims 1, 3-6, 9-10, 12-18, 21 and 23-28 under 35 U.S.C. § 102(b) as being anticipated by Ohara. The Examiner further objected to the Appellant's claims 7, 8, 19 and 20 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response to the Final Office Action, the Appellant submitted a Notice of Appeal dated February 02, 2006.

The claims on appeal are those of the Appellant's responses filed on July 18, 2005 and October 19, 2005 (they have the same claims). That is, the claims on appeal are the Appellant's claims 1, 3-10, 12-21 and 23-28, which are listed in the attached Appendix.

Summary of Claimed Subject Matter

The invention of the Appellant provides a method and system for detecting defects in a recordable storage medium including accessing a portion of the recordable storage medium where new data is to be recorded and selectively examining data in the accessed portion for defects prior to recording the new data. In the invention of the Appellant if defects are detected in the data in the accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in the accessed portion having defects. The method and system of the Appellant's invention is directed in part to solving the deficiencies of the prior art in which a user may record a lengthy program only to discover that a portion of the program was recorded onto a damaged or worn area of a recording medium. As such, the Appellant proposes a method and system for detecting defects in a recordable storage medium such that new data to be recorded is not recorded in the portions of a recording medium having defects.

As suggested in MPEP 1206, the Appellant now reads at least two of the broadest appealed claims on the specification and on the drawings. It should be understood, however, that the appealed claims may read on other portions of the specification or other figures that are not listed below.

With regards to at least the Appellant's system claim 12, the Appellant's Specification specifically states that a system 100 of the present invention can include a controller 101 for locating defects in a recordable storage medium in accordance with the inventive arrangements. In one arrangement, the controller 101 can contain a back end processor or a control central processing unit (CPU) 122 and a front end processor 109. The device 100 can also include a front end section 111 and a back end section 112. The front end section 111 can include the following components: a motor 106 for spinning a storage medium such as a disc 102; a pickup assembly 108, which can be adapted to be moved over the disc 102 as the disc 102 spins; a servo 110 for controlling the motor 106 and the pickup assembly 108; error correction coding (ECC) circuits 128 and 130; and the front end processor 109. In one arrangement, the front end processor 109 can be used to process data once the pickup assembly 108 reads the data from the disc 102.

A laser on the pickup assembly 108 can burn spots onto a spiral track on the disc 102 and can illuminate spots already burned onto the track for recording and playing back video and/or audio program material. The back end section 112 can include the following components: the control CPU 122; a navigation data generation circuit 126; a track buffer 172; a record buffer 152 and a multiplexer 154 for multiplexing navigation data with the digitally encoded signal from the record buffer 152. In addition, control and data interfaces can also be provided for permitting the control CPU 122 to control (through the servo 110) the operation of the pickup assembly 108. Suitable software or firmware can be provided in memory for the conventional operations performed by the control CPU 122 and the front end processor 109. Further, program routines for detecting defects in recordable storage media in accordance with the inventive arrangements can be provided in memory for the front end processor 109; program routines for responding to any such defects in accordance with the inventive arrangements can be provided in memory for the control CPU 122 as well.

In one embodiment of the Appellant's invention, the pickup assembly 108 can access a segment of multimedia data that has been recorded onto a portion of the disc 102. The device 100 can be merely playing back multimedia data that has been recorded during a previous recording session. Once accessed, the front end processor 109 can selectively examine the segment of multimedia data to determine whether the first portion of the disc 102 from which the segment was read contains a defect. Accordingly, the accessing and selectively examining steps can be performed exclusively within the front end section 111 thereby simplifying the overall process. If a defect is detected in the portion of the disc 102, then a number of corrective measures can be taken. As an example, the control CPU 122 can generate a defect message and can store the address of the portion of the disc 102 that contains the defect to prevent recording over these sectors during subsequent recording sessions. In addition, the control CPU 122 can instruct the pickup assembly 108 to re-read the affected portion a number of times, instruct the servo 106 to decrease the speed of the disc 102 during the re-read step and/or instruct the servo 106 to maintain the speed of the disc 102 substantially constant during the re-read step. Moreover, if the device 100 is recording, then the control CPU 122 can instruct the pickup assembly 108 to re-

record the affected portion of data onto a new portion of the disc 102 that does not contain any defects.

In addition and with regards to at least the Appellant's method claim 1, the Appellant's Specification specifically teaches all of the aspects of at least the Appellant's method claim 1. That is, the Specification teaches a flowchart 200 that demonstrates one way in which defect detection can be performed on a storage medium in accordance with an embodiment of the present invention. More specifically, the process of flowchart 200 is initiated at step 210 in which a segment of data that has been recorded onto a portion of a recordable storage medium can be accessed. At step 214 once a segment of data has been accessed, all or a portion of that segment can then be examined to determine whether the portion of the recordable storage medium from which the segment was accessed contains a defect. In one arrangement, it can be determined whether the portion of the recordable storage medium has one or more defects by reading all or a portion of the segment of data and then selectively processing one or more error correction indicators in the segment to locate one or more errors in the segment.

If the segment of data contains one or more uncorrectable errors, then there is a strong possibility that the portion of the recordable storage medium from which the segment was read contains a defect. Similarly, if the number of correctable errors reaches a predetermined threshold, then there is also a strong possibility that the portion of the storage medium contains a defect, even though these errors will not interfere with the picture quality during playback.

If a defect is detected in the portion of the recordable storage medium at decision block 216, *i.e.*, an uncorrectable error has been found or the number of correctable errors has reached the predetermined threshold, then a number of corrective measures can be taken, as shown at step 222. That is, at step 222, if an uncorrectable error is detected in the segment of data, then the segment of data can be re-read, and the error correction indicators can be re-processed. That is, the reading and processing steps, as discussed in relation to step 214, can be repeated. This process may continue until the uncorrectable errors detected in the initial examining step can be corrected, or, alternatively, the reading and processing steps can be repeated for a predetermined

number of times, whichever is less. Attempting to correct uncorrectable errors detected in the initial examining step can improve the playback of the affected segment of data.

In one arrangement, test data can be written onto the medium prior to the recording of the data intended to be written to the medium (or actual data) and then searched for errors. As an example, the test data can be written at a predetermined bit rate for a predetermined amount of time and then searched for errors. Continuing with this example, if the user wishes to record a one-half hour program, the test data can be recorded onto the disc for approximately one-half hour. In one arrangement, the test data can be written at the maximum recording rate. Writing at the maximum rate can ensure that a large enough area is searched for purposes of receiving the program, as it is unlikely that the bit rate for the actual data will remain at the maximum rate throughout the entire program. This test data can then be searched for errors to determine whether there are any defects in the portion of the medium that has received the test data. If a defect is detected, then a defect message can be generated and/or the address of the portion of the recordable storage medium which contains the defect can be stored in a table for future reference, as discussed in step 222 of flowchart 200. Thus, a user can be made aware of the suitability of a storage medium's recording capability prior to the actual recording.

If a defect is discovered, then a defect message can be generated and/or the address of the portion of the recordable storage medium which contains the defect can be stored in a table for future reference. Moreover, the test data can be recorded onto another area of the medium, and the test data can also be examined again to ensure that the new medium area receiving the test data contains no defects. Once a suitable area has been located, the actual data can be recorded there, and the process of alternately writing test and actual data can continue. It should be noted that this process of writing test data during the recording of test data can also be applicable during a pause-resume function.

For the convenience of the Board of Patent Appeals and Interferences, Appellants' pending claims are presented below in claim format with elements read on the drawings and appropriate citations to at least one portion of the specification for each element of the appealed claims (with reference numerals added).

Claim 1 positively recites (with reference numerals added, where applicable):

> 1. A method of detecting defects in a recordable optical storage medium, comprising the steps of:
> accessing (210) a portion of the recordable storage medium wherein new data is to be recorded; and
> selectively examining (214) data in said accessed portion for defects prior to recording said new data;
> wherein if defects are detected in the data in said accessed portion, corrective measures are taken (222) such that the new data to be recorded is not recorded in said accessed portion having defects. (See Appellant's specification, page 8, lines 1-18 and page 10, line 18 through page 11, line 23).

Claim 2 (cancelled)

Claim 3 positively recites:

> 3. The method according to claim 1, wherein said selectively examining step comprises the steps of:
> selectively reading the data in said accessed portion; and
> selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium. (See Appellant's specification, page 8, lines 15-21).

Claim 4 positively recites:

> 4. The method according to claim 3, wherein the errors are correctable and the number of errors has reached a predetermined threshold. (See Appellant's specification, page 9, lines 16-19).

Claim 5 positively recites:

> 5. The method according to claim 3, wherein the errors are uncorrectable. (See Appellant's specification, page 9, lines 8-13).

Claim 6 positively recites:

> 6. The method according to claim 5, wherein said selectively reading and said selectively processing steps are repeated until the errors are corrected

or repeated for a predetermined number of times, whichever is less. (See Appellant's specification, page 11, lines 14-20).

Claim 7 positively recites:

7. The method according to claim 6, wherein the recordable optical storage medium is a disc that spins during said selectively reading step and the selectively reading step further comprises the step of decreasing the speed of the disc prior to each said selectively reading step. (See Appellant's specification, page 3, lines 1-4 and page 12, lines 3-5).

Claim 8 positively recites:

8. The method according to claim 7, wherein said selectively reading step further comprises the step of maintaining the speed of the disc substantially constant during each said selectively reading step. (See Appellant's specification, page 12, lines 5-7).

Claim 9 positively recites:

9. The method according to claim 5, wherein said selectively reading step further comprises the step of skipping over at least part of the accessed portion. (See Appellant's specification, page 2, lines 21-23).

Claim 10 positively recites:

10. The method according to claim 1, further comprising the step of providing a front end section of a storage medium device, wherein said selectively examining step is performed exclusively within said front end section. (See Appellant's specification, page 6, lines 15-20).

Claim 11 (Cancelled)

Claim 12 positively recites (with reference numerals added, where applicable):

12. A system (100) for detecting defects in a recordable optical storage medium (102), comprising:

a pickup assembly (108) for accessing a portion of the recordable storage medium (102) wherein new data is to be recorded; and

a controller (122) for:

selectively examining (214) data in said accessed portion for defects prior to recording said new data;

wherein if defects are detected in the data in said accessed portion, corrective measures are taken (122) such that the new data to be recorded is not recorded in said accessed portion having defects. (See Appellant's specification, page 5, line 18 through page 7, line 9).

Claim 13 positively recites:

13. The system according to claim 12, wherein the pickup assembly records a segment of multimedia data onto the accessed portion of the recordable storage medium. (See Appellant's specification, page 6, lines 9-15).

Claim 14 positively recites:

14. The system according to claim 12, wherein said controller comprises:

a front end processor; and

a back end processor. (See Appellant's specification, page 5, lines 1-2).

Claim 15 positively recites:

15. The system according to claim 14, wherein the front end processor is programmed for:

selectively reading the data in said accessed portion; and

selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium. (See Appellant's specification, page 6, lines 1-20).

Claim 16 positively recites:

16. The system according to claim 15, wherein the errors are correctable and the number of errors has reached a predetermined threshold. (See Appellant's specification, page 9, lines 16-19).

Claim 17 positively recites:

17. The system according to claim 15, wherein the errors are uncorrectable. (See Appellant's specification, page 9, lines 8-9).

Claim 18 positively recites:

18. The system according to claim 17, wherein the front end processor is further programmed to repeat the selectively reading and selectively processing steps until the errors are corrected or repeated for a predetermined number of times, whichever is less. (See Appellant's specification, page 11, lines 14-20).

Claim 19 positively recites:

19. The system according to claim 15, wherein the recordable optical storage medium is a disc that spins as the data in said accessed portion is selectively read and the back end processor is programmed to decrease the speed of the disc prior to the data in said accessed portion being selectively read. (See Appellant's specification, page 3, lines 1-4 and page 12, lines 3-5).

Claim 20 positively recites:

20. The system according to claim 19, wherein the back end processor is further programmed to maintain the speed of the disc substantially constant as the data in said accessed portion is selectively read. (See Appellant's specification, page 12, lines 5-7).

Claim 21 positively recites:

21. The system according to claim 17, wherein the front end processor is further programmed to skip over at least a portion of the data in said accessed portion. (See Appellant's specification, page 2, lines 21-23).

Claim 22 (Cancelled)

Claim 23 positively recites:

23. The method according to claim 1, wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step. (See Appellant's specification, page 7, lines 18-22 and page 10, line 21 through page 11, line 20).

Claim 24 positively recites:

> 24. The system according to claim 12, wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step. (See Appellant's specification, page 7, lines 18-22 and page 10, line 21 through page 11, line 20).

Claim 25 positively recites:

> 25. The method according to claim 1, wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion. (See Appellant's specification, page 7, lines 16-18).

Claim 26 positively recites:

> 26. The method according to claim 1, wherein said selectively examined data in said accessed portion comprises test data recorded in said accessed portion. (See Appellant's specification, page 13, lines 3-9).

Claim 27 positively recites:

> 27. The system according to claim 12, wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion. (See Appellant's specification, page 7, lines 16-18).

Claim 28 positively recites:

> 28. The system according to claim 12, wherein said selectively examined data in said accessed portion comprises test data recorded in said accessed portion. (See Appellant's specification, page 13, lines 3-9).

Grounds of Rejections to be Reviewed on Appeal

1. Whether the Appellant's claims 1, 3-6, 9-10, 12-18, 21 and 23-28 are patentable under 35 U.S.C. § 102(b) over Ohara et al. (US Patent No. 6,097,683).

2. Pending claims 1, 3-6, 9-10, 12-18, 21 and 23-28 have been grouped together by the Examiner in their rejection. Appellant urges that each of the rejected claims stands on its own recitation, the claims being considered to be separately patentable for the reasons set forth in more detail *infra*.

ARGUMENT

I. THE EXAMINER ERRED IN REJECTING CLAIMS 1, 3-6, 9-10, 12-18, 21 and 23-28 UNDER 35 U.S.C. § 102(b) BECAUSE THE CITED REFERENCE FAILS TO TEACH, SUGGEST OR ANTICIPATE AT LEAST A METHOD AND SYSTEM OF DETECTING DEFECTS IN A RECORDABLE OPTICAL STORAGE MEDIUM INCLUDING AT LEAST "SELECTIVELY EXAMINING DATA IN SAID ACCESSED PORTION FOR DEFECTS PRIOR TO RECORDING SAID NEW DATA" AND "WHEREIN IF DEFECTS ARE DETECTED IN THE DATA IN SAID ACCESSED PORTION. CORRECTIVE MEASURES ARE TAKEN SUCH THAT THE NEW DATA TO BE RECORDED IS NOT RECORDED IN SAID ACCESSED PORTION HAVING DEFECTS".

A. 35 U.S.C. § 102(b) - Claim 1

The Examiner rejected the Appellant's claims under 35 U.S.C. § 102(b) as being anticipated by Ohara et al. (U.S. Patent 6,317,831, hereinafter "Ohara"). The rejection is respectfully traversed.

The Examiner alleges that Ohara anticipates the Appellant's invention. The Appellant respectfully disagrees.

The Appellant respectfully submits that the Ohara reference fails to teach, suggest or disclose each and every element of at least the Appellant's invention as recited in at least the Appellant's independent claim 1, which specifically recites:

> "A method of detecting defects in a recordable optical storage medium, comprising the steps of:
> accessing a portion of the recordable storage medium wherein new data is to be recorded; and
> selectively examining data in said accessed portion for defects **prior to recording said new data**;
> wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects.**" (emphasis added).

The Appellant's invention is directed at least in part to a method and system for detecting defects in a recordable optical storage medium where at least a portion of the

recordable storage medium in which new data is to be recorded is examined for defects. In one embodiment of the invention of the Appellant, if previously recorded data exists in the accessed portion, the old data is reproduced and examined for defects **prior to recording the new data**. In the invention of the Appellant, if the examined old data in the accessed portion of the storage medium exhibits defects, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**. In support of the Appellant's invention, at least as claimed by the Appellant's claim 1 recited above, the Appellant in the Specification, specifically recites:

> "Specifically, a segment of multimedia data that has been recorded onto a first portion of a recordable storage medium can be accessed, and the data can then be selectively examined to determine whether the first portion contains a defect. The data that is examined can be data that has just been recorded during a current recording session or **data that has been previously recorded and is being played back. If a defect is detected, then a number of corrective measures can be taken including: generating a defect message; storing the address of the first portion of the recordable storage medium in a table; writing the segment of data onto a second portion of the recordable storage medium; and modifying the selectively examining step.**" (See Appellant's Specification, page 7, lines 13-22).

And

> "In another arrangement, test data can be written onto at least a portion of the recordable storage medium **prior to or during the step of writing the actual data to be recorded onto that portion of the medium**. Specifically, a portion of the recordable storage medium can received the test data. Once the test data is recorded onto the medium, the test data can then be selectively examined - similar to the examining process described above in step 214 - to determine whether the recording area contains one or more flaws." (See Appellant's Specification, page 13, lines 3-9).

The Appellant, in the Specification, further recites:

> "If a defect is detected, then a defect message can be generated and/or the address of the portion of the recordable storage medium which contains the defect can be stored in a table for future reference, as discussed in step 222 of flowchart 200. Thus, a user can be made aware of the suitability of a storage medium's recording capability **prior to the actual recording**." (See Appellant's Specification, page 13, line 21 through page 14, line 1).

And

> "Specifically, **before a segment of actual data is written to a portion of the medium**, test data can be written to that portion of the

> medium and searched for errors. If the portion of the medium contains no defects, then the actual data can be recorded onto that portion of the medium and the process can continue.
>
> If a defect is discovered, then one or more of the previously discussed corrective measures of step 222 of flowchart 200 can be performed. For example, a defect message can be generated and/or the address of the portion of the recordable storage medium which contains the defect can be stored in a table for future reference. Moreover, the test data can be recorded onto another area of the medium, and the test data can also be examined again to ensure that the new medium area receiving the test data contains no defects. **Once a suitable area has been located, the actual data can be recorded there**, and the process of alternately writing test and actual data can continue." (See Appellant's Specification, page 14, line 6 through page 14, line 18).

In support of at least the Appellant's claim 1, the Appellant specifically teaches, as clearly depicted by at least the portions of the Appellant's Specification depicted above, a method and system for detecting defects in a recordable optical storage medium including playing back multimedia data that has been recorded during a previous recording session to determine whether an accessed portion of the storage medium contains a defect and alternatively recording multimedia data (test data) and examining the multimedia data (test data) to determine whether the portion of the disc that the test data was written on contains defects all prior to recording the actual data. The Appellant specifically teaches that in one arrangement the test data is written to the medium prior to the recording of the actual data and that alternatively, the test data can be written to the medium during a recording session of the actual data but still prior to writing the actual data to a portion of the medium. That is, in at least the claimed invention of the Appellant at least with respect to claim 1, a portion of a medium wherein it is desired to write actual data is always tested prior to writing the actual data, **such that actual data to be recorded is not recorded in a portion of the medium having defects.** In the invention of the Appellant, the testing of the media for defects before actually attempting to record actual, desired content supports real time recording and recovery in a manner superior to that of Ohara. That is, the invention of the Appellant overcomes deficiencies in the prior art, such as Ohara, where actual data is recorded onto a storage medium, only to subsequent to the recording, discovering that at least a portion of the actual data was recorded onto a damaged or worn portion of the storage

medium. That is, the Appellant's invention is directed at least in part to preventing the unnecessary rerecording of actual data due to undetected defects in a storage medium.

The Appellant respectfully submits that there is absolutely no teaching, suggestion or disclosure in Ohara for a method and system for detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed by at least the Appellant's claim 1.

Ohara teaches an information recording/reproducing apparatus and a method of recording data onto an information recording/reproducing media. In Ohara, the information recording/reproducing apparatus has the capability of handling the information recording/reproducing media both when they are not in a case and when they are in a case. A recording mode is selected basing on the determinations of (i) whether or not the recording/reproducing medium is a medium type which is necessarily contained in a case at recording and (ii) whether the case is present or absent. (See Ohara, Abstract).

In contrast to the invention of the Appellant, in Ohara, upon a history determining means detecting the absence of an identification member, a user is offered an option whether or not to perform a verification mode. If a user opts to perform the verification mode, a verification means verifies newly recorded information that is intended to remain on a disc. More specifically, Ohara specifically recites:

> "Thus, since the user decide whether to perform the verification or not, a problem is solved that the recording speed is reduced by always performing the verification.
>
> Step 4 (ST4): At this step, normal recording is performed by the recording means 35. When recording is completed, the operation is terminated without the verification being performed and the process waits for the next direction from the user.
>
> Step 5 (ST5): The information the user intends to record is recorded by the recording means 35 and the process proceeds to step 6.
>
> Step 6 (ST6): The verifying means 34 verifies the information recorded at step 5.

> Specifically, (1) the area recorded just now is reproduced, and (2) simultaneously therewith, the error correcting circuit is actuated to check the number of errors." (See Ohara, col. 11, lines 7-22).

As evident from at least the portion of the disclosure of Ohara depicted above, Ohara specifically teaches away from the invention of the Appellant. More specifically, in Ohara actual desired data is written onto a recording medium and then the recorded actual data is reproduced and tested for errors. This is in direct contrast to the teachings and claims of the Appellant, wherein old data or test data in an accessed portion of a medium is reproduced and examined for defects, prior to recording actual data of interest onto the accessed portion of the medium. That is, there is absolutely no teaching, suggestion or disclosure in Ohara for at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed by at least the Appellant's claim 1. Instead, in Ohara, upon a history determining means detecting the absence of an identification member, a user is offered an option whether or not to perform a verification mode. If a user opts to perform the verification mode, a verification means verifies newly recorded information that is intended to remain on a disc (i.e., not test data or previously recorded data examined before recording the new data that is intended to remain on a recordable storage medium as in the invention of the Appellant). That is, the Appellant's invention, at least with respect to claim 1, is directed at least in part to addressing the deficiencies of the prior art, such as the invention of Ohara, where actual data intended to remain on a disk after recording has to be rerecorded because of defects in the recording medium.

The Examiner alleges that the Appellant's claim 1 merely reads on the verification step of Ohara, however, the verification step of Ohara can only be performed after the actual data intended to remain on the medium has already been recorded prior to knowing whether any defects exist on the portion of the recording medium in which the data was written. As previously described, the invention of the Appellant is directed at least in part to preventing such recording before it is known

whether defects exist and as such preventing the unnecessary rerecording of data as in the invention of Ohara.

For at least the reasons described above, the Appellant respectfully submits that the teachings of Ohara fall far short of the Appellant's claimed invention, at least with respect to independent claim.

As such and at least because the teachings of Ohara teach away from the invention of the Appellant and because Ohara fails to teach, suggest or disclose at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed by at least the Appellant's claim 1, the Appellant respectfully submits that the teachings and disclosure of Ohara do not teach each and every element of the Appellant's claimed invention, arranged as in the claim, and as such, Ohara does not anticipate the Appellant's invention, at least with respect to independent claim 1.

Therefore, the Appellant submits that for at least the reasons recited above, independent claim 1 is not anticipated by the teachings of Ohara and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

B. 35 U.S.C. § 102(b) - Claim 2

Claim 2 has been cancelled in prosecution.

C. 35 U.S.C. § 102 - Claim 3

Claim 3 depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, the Appellant respectfully submits that dependent claim 3 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 1 further limited by " wherein said selectively examining step

comprises the steps of: selectively reading the data in said accessed portion; and selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium" as recited in claim 3.

That is, and for at least the same reasons provided in Section A above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 3, which depends directly from independent claim 1.

Therefore, the Appellant submits that claim 3, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

D. 35 U.S.C. § 102(b) - Claim 4

Claim 4 depends directly from claim 3 which depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1 and dependent claim 3, the Appellant respectfully submits that dependent claim 4 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claim 3. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1 and 3 further limited by "wherein the errors are correctable and the number of errors has reached a predetermined threshold" as recited in claim 4.

That is, and for at least the same reasons provided in Sections A and C above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and

"wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claim 3, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 4, which depends directly from clam 3 and indirectly from independent claim 1.

Therefore, the Appellant submits that claim 4, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

E. 35 U.S.C. § 102(b) - Claim 5

Claim 5 depends directly from claim 3 which depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1 and dependent claim 3, the Appellant respectfully submits that dependent claim 5 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claim 3. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1 and 3 further limited by "wherein the errors are uncorrectable" as recited in claim 5.

That is, and for at least the same reasons provided in Sections A and C above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claim 3, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 5, which depends directly from clam 3 and indirectly from independent claim 1.

Therefore, the Appellant submits that claim 5, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

F. 35 U.S.C. § 102(b) - Claim 6

Claim 6 depends directly from claim 5 which depends directly from claim 3 and indirectly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, dependent claim 3 and dependent claim 5, the Appellant respectfully submits that dependent claim 6 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claims 3 and 5. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1, 3 and 5 further limited by "wherein said selectively reading and said selectively processing steps are repeated until the errors are corrected or repeated for a predetermined number of times, whichever is less" as recited in claim 6.

That is, and for at least the same reasons provided in Sections A, C and E above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claims 3 and 5, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 6, which depends directly from claim 5 and indirectly from claims 1 and 3.

Therefore, the Appellant submits that claim 6, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

G. 35 U.S.C. § 102(b) - Claim 7

Claim 7 depends directly from claim 6 which depends directly from claim 5 and indirectly from claims 1 and 3 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, dependent claims 3 and 5 and dependent claim 6, the Appellant respectfully submits that dependent claim 7 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claims 3, 5 and 6. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1, 3, 5 and 6 further limited by "wherein the recordable optical storage medium is a disc that spins during said selectively reading step and the selectively reading step further comprises the step of decreasing the speed of the disc prior to each said selectively reading step" as recited in claim 7.

That is, and for at least the same reasons provided in Sections A, C, E and F above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claims 3, 5 and 6, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 7, which depends directly from claim 6 and indirectly from claims 1, 3 and 5.

Therefore, the Appellant submits that claim 7, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

H. 35 U.S.C. § 102(b) - Claim 8

Claim 8 depends directly from claim 7 which depends directly from claim 6 and indirectly from claims 1, 3 and 5 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with

regard to at least the Appellant's independent claim 1, dependent claims 3, 5 and 6 and dependent claim 7, the Appellant respectfully submits that dependent claim 8 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claims 3, 5, 6 and 7. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1, 3, 5, 6 and 7 further limited by "wherein said selectively reading step further comprises the step of maintaining the speed of the disc substantially constant during each said selectively reading step" as recited in claim 8.

That is, and for at least the same reasons provided in Sections A, C, E, F and G above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claims 3, 5, 6 and 7, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 8, which depends directly from claim 7 and indirectly from claims 1, 3, 5 and 6.

Therefore, the Appellant submits that claim 7, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

I. 35 U.S.C. § 102(b) - Claim 9

Claim 9 depends directly from claim 5 which depends directly from claim 3 and indirectly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, dependent claim 3 and dependent claim 5, the Appellant respectfully submits that dependent claim 9 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1 and dependent claims 3 and 5. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 1, 3 and 5

further limited by "wherein said selectively reading step further comprises the step of skipping over at least part of the accessed portion" as recited in claim 9.

That is, and for at least the same reasons provided in Sections A, C and E above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as further limited by the limitations of claims 3 and 5, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 9, which depends directly from claim 5 and indirectly from claims 1 and 3.

Therefore, the Appellant submits that claim 9, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

J. 35 U.S.C. § 102(b) - Claim 10.

Claim 10 depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, the Appellant respectfully submits that dependent claim 10 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 1 further limited by "providing a front end section of a storage medium device, wherein said selectively examining step is performed exclusively within said front end section" as recited in claim 10.

That is, and for at least the same reasons provided in Section A above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective

measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 10, which depends directly from independent claim 1.

Therefore, the Appellant submits that claim 10, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

K. 35 U.S.C. § 102(b) - Claim 11

Claim 11 has been cancelled in prosecution.

L. 35 U.S.C. § 102(b) - Claim 12

Claim 12 is an independent claim that recites similar relevant features as recited in the Appellant's independent claim 1. More specifically, claim 12 claims a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects."

As described in section A above, the teachings of Ohara absolutely fail to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1 and as similarly claimed in the Appellant's claim 12 reciting "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in

said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects." That is, the Appellant respectfully submits that independent claim 12 is also not anticipated by Ohara and is allowable for at least the reasons stated above with respect to independent claim 1.

Therefore, the Appellant submits that claim 12, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

M. 35 U.S.C. § 102(b) - Claim 13

Claim 13 depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, the Appellant respectfully submits that dependent claim 13 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 12 further limited by "wherein the pickup assembly records a segment of multimedia data onto the accessed portion of the recordable storage medium" as recited in claim 13.

That is, and for at least the same reasons provided in Sections A and L above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 13, which depends directly from independent claim 12.

Therefore, the Appellant submits that claim 13, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

N. 35 U.S.C. § 102(b) - Claim 14

Claim 14 depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, the Appellant respectfully submits that dependent claim 14 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 12 further limited by "wherein said controller comprises: a front end processor; and a back end processor" as recited in claim 14.

That is, and for at least the same reasons provided in Sections A and L above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 14, which depends directly from independent claim 12.

Therefore, the Appellant submits that claim 14, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

O. 35 U.S.C. § 102(b) - Claim 15

Claim 15 depends directly from claim 14 which depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to

at least the Appellant's independent claim 12 and dependent claim 14, the Appellant respectfully submits that dependent claim 15 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claim 14. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12 and 14 further limited by "wherein the front end processor is programmed for: selectively reading the data in said accessed portion; and selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium" as recited in claim 15.

That is, and for at least the same reasons provided in Sections L and N above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claim 14, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 15, which depends directly from clam 14 and indirectly from independent claim 12.

Therefore, the Appellant submits that claim 15, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

P. 35 U.S.C. § 102(b) - Claim 16.

Claim 16 depends directly from claim 15 which depends directly from claim 14 and indirectly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, dependent claim 14 and dependent claim 15, the Appellant respectfully submits that dependent claim 16 is also not anticipated and is allowable for at least the reasons stated above with

respect to independent claim 12 and dependent claims 14 and 15. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14 and 15 further limited by "wherein the errors are correctable and the number of errors has reached a predetermined threshold" as recited in claim 16.

That is, and for at least the same reasons provided in Sections L, N and O above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14 and 15, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 16, which depends directly from clam 15 and indirectly from claims 12 and 14.

Therefore, the Appellant submits that claim 16, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Q. 35 U.S.C. § 102(b) - Claim 17

Claim 17 depends directly from claim 15 which depends directly from claim 14 and indirectly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, dependent claim 14 and dependent claim 15, the Appellant respectfully submits that dependent claim 17 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claims 14 and 15. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14 and 15 further limited by "wherein the errors are uncorrectable" as recited in claim 17.

That is, and for at least the same reasons provided in Sections L, N and O above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14 and 15, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 17, which depends directly from clam 15 and indirectly from claims 12 and 14.

Therefore, the Appellant submits that claim 17, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

R. 35 U.S.C. § 102(b) - Claim 18

Claim 18 depends directly from claim 17 which depends directly from claim 15 and indirectly from independent claims 12 and 14 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, dependent claim 14 and dependent claims 15 and 17, the Appellant respectfully submits that dependent claim 18 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claims 14, 15 and 17. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14, 15 and 17 further limited by "wherein the front end processor is further programmed to repeat the selectively reading and selectively processing steps until the errors are corrected or repeated for a predetermined number of times, whichever is less" as recited in claim 18.

That is, and for at least the same reasons provided in Sections L, N, O and Q above, at least because Ohara fails to teach, suggest or anticipate at least a system for

detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14, 15 and 17, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 18, which depends directly from claim 17 and indirectly from claims 12, 14 and 15.

Therefore, the Appellant submits that claim 18, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

S. 35 U.S.C. § 102(b) - Claim 19

Claim 19 depends directly from claim 15 which depends directly from claim 14 and indirectly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, dependent claim 14 and dependent claim 15, the Appellant respectfully submits that dependent claim 19 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claims 14 and 15. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14 and 15 further limited by "wherein the recordable optical storage medium is a disc that spins as the data in said accessed portion is selectively read and the back end processor is programmed to decrease the speed of the disc prior to the data in said accessed portion being selectively read" as recited in claim 19.

That is, and for at least the same reasons provided in Sections L, N and O above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be

recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14 and 15, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 19, which depends directly from clam 15 and indirectly from claims 12 and 14.

Therefore, the Appellant submits that claim 19, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

T. 35 U.S.C. § 102(b) - Claim 20

Claim 20 depends directly from claim 19 which depends directly from claim 15 and indirectly from claims 12, and 14 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12 and dependent claims 14, 15 and 19, the Appellant respectfully submits that dependent claim 20 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claims 14, 15 and 19. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14, 15 and 19 further limited by "wherein the back end processor is further programmed to maintain the speed of the disc substantially constant as the data in said accessed portion is selectively read" as recited in claim 20.

That is, and for at least the same reasons provided in Sections L, N, O and S above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be

recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14, 15 and 19, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 20, which depends directly from clam 19 and indirectly from claims 12, 14 and 15.

Therefore, the Appellant submits that claim 20, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

U. 35 U.S.C. § 102(b) - Claim 21

Claim 21 depends directly from claim 17 which depends directly from claim 15 and indirectly from independent claims 12 and 14 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, dependent claim 14 and dependent claims 15 and 17, the Appellant respectfully submits that dependent claim 21 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12 and dependent claims 14, 15 and 17. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claims 12, 14, 15 and 17 further limited by "wherein the front end processor is further programmed to skip over at least a portion of the data in said accessed portion" as recited in claim 21.

That is, and for at least the same reasons provided in Sections L, N, O and Q above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12 and as further limited by the limitations of claims 14, 15 and 17, the Appellant respectfully submits that

Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 21, which depends directly from claim 17 and indirectly from claims 12, 14 and 15.

Therefore, the Appellant submits that claim 21, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

V. 35 U.S.C. § 102(b) - Claim 22

Claim 22 has been cancelled in prosecution.

W. 35 U.S.C. § 102(b) - Claim 23

Claim 23 depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, the Appellant respectfully submits that dependent claim 23 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 1 further limited by "wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step" as recited in claim 23.

That is, and for at least the same reasons provided in Section A above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 23, which depends directly from independent claim 1.

Therefore, the Appellant submits that claim 23, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

X. 35 U.S.C. § 102(b) - Claim 24

Claim 24 depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, the Appellant respectfully submits that dependent claim 24 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 12 further limited by "wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step" as recited in claim 24.

That is, and for at least the same reasons provided in Sections A and L above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 24, which depends directly from independent claim 12.

Therefore, the Appellant submits that claim 24, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Y. 35 U.S.C. § 102(b) - Claim 25

Claim 25 depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, the Appellant respectfully submits that dependent claim 25 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 1 further limited by "wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion" as recited in claim 25.

That is, and for at least the same reasons provided in Section A above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 25, which depends directly from independent claim 1.

Therefore, the Appellant submits that claim 25, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Z. 35 U.S.C. § 102(b) - Claim 25

Claim 26 depends directly from independent claim 1 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 1, the Appellant respectfully submits that dependent claim 26 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 1. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 1 further limited by "wherein said selectively

examined data in said accessed portion comprises test data recorded in said accessed portion" as recited in claim 26.

That is, and for at least the same reasons provided in Section A above, at least because Ohara fails to teach, suggest or anticipate at least a method of detecting defects in a recordable optical storage medium including at least "selectively examining data in said accessed portion for defects **prior to recording said new data**" and "wherein if defects are detected in the data in said accessed portion, corrective measures are taken **such that the new data to be recorded is not recorded in said accessed portion having defects**" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 1, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 26, which depends directly from independent claim 1.

Therefore, the Appellant submits that claim 26, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

A1. 35 U.S.C. § 102(b) - Claim 27

Claim 27 depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, the Appellant respectfully submits that dependent claim 27 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 12 further limited by "wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion" as recited in claim 27.

That is, and for at least the same reasons provided in Sections A and L above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in

said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 27, which depends directly from independent claim 12.

Therefore, the Appellant submits that claim 27, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

B1. 35 U.S.C. § 102(b) - Claim 28

Claim 28 depends directly from independent claim 12 and recites further limitations thereof. At least because teachings of Ohara fail to teach, suggest or anticipate the invention of the Appellant with regard to at least the Appellant's independent claim 12, the Appellant respectfully submits that dependent claim 28 is also not anticipated and is allowable for at least the reasons stated above with respect to independent claim 12. The Appellant further submits that Ohara also fails to teach, suggest or anticipate the Appellant's claim 12 further limited by "wherein said selectively examined data in said accessed portion comprises test data recorded in said accessed portion" as recited in claim 28.

That is, and for at least the same reasons provided in Sections A and L above, at least because Ohara fails to teach, suggest or anticipate at least a system for detecting defects in a recordable optical storage medium including "a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded" and "a controller for: selectively examining data in said accessed portion for defects prior to recording said new data; wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects" as taught in the Appellant's Specification and claimed in at least the Appellant's claim 12, the Appellant respectfully submits that Ohara also fails to teach, suggest or anticipate the Appellant's invention as claimed in dependent claim 28, which depends directly from independent claim 12.

Therefore, the Appellant submits that claim 28, as it now stands, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Conclusion

Thus, the Appellant submits that none of the claims presently in the application are anticipated under the provisions of 35 U.S.C. § 102. Consequently, the Appellant believes all these claims are presently in condition for allowance.

For the reasons advanced above, the Appellant respectfully urges that the rejections of claims 1, 3-6, 9-10, 12-18, 21 and 23-28 as being anticipated under 35 U.S.C. §102 are improper. Reversal of the rejections in this Appeal is respectfully requested.

Respectfully submitted,

29 March 06
Date

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CLAIMS APPENDIX

1. (Previously Presented) A method of detecting defects in a recordable optical storage medium, comprising the steps of:

accessing a portion of the recordable storage medium wherein new data is to be recorded; and

selectively examining data in said accessed portion for defects prior to recording said new data;

wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects.

2. (Cancelled)

3. (Previously Presented) The method according to claim 1, wherein said selectively examining step comprises the steps of:

selectively reading the data in said accessed portion; and

selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium.

4. (Original) The method according to claim 3, wherein the errors are correctable and the number of errors has reached a predetermined threshold.

5. (Original) The method according to claim 3, wherein the errors are uncorrectable.

6. (Original) The method according to claim 5, wherein said selectively reading and said selectively processing steps are repeated until the errors are corrected or repeated for a predetermined number of times, whichever is less.

7. (Original) The method according to claim 6, wherein the recordable optical storage medium is a disc that spins during said selectively reading step and the

selectively reading step further comprises the step of decreasing the speed of the disc prior to each said selectively reading step.

8. (Original) The method according to claim 7, wherein said selectively reading step further comprises the step of maintaining the speed of the disc substantially constant during each said selectively reading step.

9. (Previously Presented) The method according to claim 5, wherein said selectively reading step further comprises the step of skipping over at least part of the accessed portion.

10. (Original) The method according to claim 1, further comprising the step of providing a front end section of a storage medium device, wherein said selectively examining step is performed exclusively within said front end section.

11. (Canceled)

12. (Previously Presented) A system for detecting defects in a recordable optical storage medium, comprising:

a pickup assembly for accessing a portion of the recordable storage medium wherein new data is to be recorded; and

a controller for:

selectively examining data in said accessed portion for defects prior to recording said new data;

wherein if defects are detected in the data in said accessed portion, corrective measures are taken such that the new data to be recorded is not recorded in said accessed portion having defects.

13. (Previously Presented) The system according to claim 12, wherein the pickup assembly records a segment of multimedia data onto the accessed portion of the recordable storage medium.

14. (Original) The system according to claim 12, wherein said controller comprises:

a front end processor; and

a back end processor.

15. (Previously Presented) The system according to claim 14, wherein the front end processor is programmed for:

selectively reading the data in said accessed portion; and

selectively processing at least one error correction indicator in the data to locate at least one error in said accessed portion of the recordable optical storage medium.

16. (Original) The system according to claim 15, wherein the errors are correctable and the number of errors has reached a predetermined threshold.

17. (Original) The system according to claim 15, wherein the errors are uncorrectable.

18. (Original) The system according to claim 17, wherein the front end processor is further programmed to repeat the selectively reading and selectively processing steps until the errors are corrected or repeated for a predetermined number of times, whichever is less.

19. (Previously Presented) The system according to claim 15, wherein the recordable optical storage medium is a disc that spins as the data in said accessed portion is selectively read and the back end processor is programmed to decrease the speed of the disc prior to the data in said accessed portion being selectively read.

20. (Previously Presented) The system according to claim 19, wherein the back end processor is further programmed to maintain the speed of the disc substantially constant as the data in said accessed portion is selectively read.

21. (Previously Presented) The system according to claim 17, wherein the front end processor is further programmed to skip over at least a portion of the data in said accessed portion.

22. (Canceled)

23. (Previously Presented) The method according to claim 1, wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step.

24. (Previously Presented) The system according to claim 12, wherein said corrective measures consist of at least one of generating a defect message, storing the address of said accessed portion of the recordable storage medium in a defect table, writing the new data to be recorded onto a different portion of the recordable storage medium, and modifying said selectively examining step.

25. (Previously Presented) The method according to claim 1, wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion.

26. (Previously Presented) The method according to claim 1, wherein said selectively examined data in said accessed portion comprises test data recorded in said accessed portion.

27. (Previously Presented) The system according to claim 12, wherein said selectively examined data in said accessed portion comprises old data previously recorded in said accessed portion.

28. (Previously Presented) The system according to claim 12, wherein said selectively examined data in said accessed portion comprises test data recorded in said accessed portion.

EVIDENCE APPENDIX

Appellant asserts that there is no evidence to be submitted in this section.

RELATED PROCEEDINGS APPENDIX

Appellant asserts that there are no copies of decisions to be submitted in this section.